

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8636 of 2016
Date of decision:21.12.2016

Kanika Anand

... Petitioner

Vs.

Harvinder Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjay Jain, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Petitioner-defendant No.5 is aggrieved of the dismissal of the application moved under Order 7 Rule 11 of the Code of Civil Procedure, for rejection of the plaint on the ground that as per the averments made in the plaint, the suit filed in the year 2011 was *ex facie* barred by law of limitation.

Mr. Sanjay Jain, learned counsel appearing on behalf of petitioner-defendant No.5 submits that factum of sale deed of 1995 challenged in the suit was in the knowledge of the plaintiff as she had lodged an FIR on 16.05.2008. Despite having acquired the knowledge of the same in November 2007, no explanation has come forth in filing the suit in the year 2011, therefore, the suit is barred by the provisions of Articles 56 and 58 of the Limitation Act. Thus, the order under challenge is liable to be set aside and the suit may be dismissed/rejected on this ground alone.

I have heard learned counsel for petitioner/defendant No.5 and appraised the paper book.

Before I could dictate the judgment, Mr. Sanjay Jain, Advocate was called upon to apprise the status of the suit, the answer was that it was slated for plaintiff's evidence and the objection qua limitation had already been dismissed.

In my view, the question of limitation in such circumstances though *prima facie* looked to be very attractive but yet it is mixed question of fact and law. Petitioner/defendant No.5 shall be at liberty to lead all evidence by confronting the plaintiff by placing on record all other documents to dislodge her on the ground of limitation but not in the manner and mode as indicated above.

No ground is made out for interference in the impugned order.

Accordingly, the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

December 21, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No